

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

KING CHONG FOOD MARKET, INC.,
WONG HONG LUE,
and CHU FUN CHIN,

Defendants.

11 Civ. 0128 (AKH)

ECF Case

CONSENT DECREE

WHEREAS, defendants King Chong Food Market, Inc. ("King Chong"), Wong Hong Lue ("Lue") and Chu Fun Chin ("Chin") (collectively Defendants), operate a retail store that prepares, transports and sells meat and meat products as human food; and

WHEREAS, Defendants are required to comply with all applicable provisions of the Federal Meat Inspection Act ("FMIA"), as amended, 21 U.S.C. §§ 601 *et seq.*, and United States Department of Agriculture, Food Safety and Inspection Service regulations codified at 9 C.F.R. § 301.1 *et seq.*; and

WHEREAS, 9 C.F.R. § 302.1 requires that every establishment at which meat is prepared for transport or sale as human food be subject to federal inspection by the Food Safety and Inspection Service, unless that establishment is exempt from the federal inspection requirement pursuant to 9 C.F.R. § 303.1; and

WHEREAS, Defendants were not subject to federal inspection but rather operated under an exemption from federal inspection pursuant to 9 C.F.R. § 303.1(d), which requires that a retail store not exceed a certain dollar amount in sales of meat and meat products to non-household consumers; and

WHEREAS, Defendants exceeded the above-referenced dollar limitation on the amount of meat and meat food products that could be sold to non-household consumers during calendar years 2005, 2008, and 2009; and

WHEREAS, by preparing, selling, and transporting meat and meat food products that were neither inspected nor exempt from federal inspection requirements, Defendants violated 21 U.S.C. § 610(c) during calendar years 2005, 2008 and 2009; and

WHEREAS, the United States commenced this action against Defendants by filing a complaint (the "Complaint") seeking injunctive relief pursuant to 21 U.S.C. § 674; and

WHEREAS, Defendants and the United States wish to settle this action without further litigation and consent to entry by the Court of this Stipulation and Order ("Stipulation and Order");

NOW THEREFORE, it is hereby AGREED, ORDERED, ADJUDGED and DECREED that:

1. This Court has jurisdiction over the subject matter in the Complaint and has personal jurisdiction over all the parties to this matter.
2. Defendants, their directors, officers, representatives, successors, assigns, and agents, are permanently enjoined from preparing, selling, offering for sale, transporting, offering for transportation, or receiving in commerce, any meat or meat food products in violation of 21 U.S.C. § 610(c) and the regulations promulgated pursuant thereto.
3. If at any time after the date of entry of this Consent Decree, Defendants are found by this Court to have violated the provisions of 21 U.S.C. § 610(c), or regulations promulgated pursuant thereto, Defendants shall pay to the United States the sum of One Thousand Dollars (\$1,000.00) for each package or product sold in violation of 21 U.S.C. § 610(c). This amount

shall be separate from, and payable in addition to, any other civil or criminal remedies awarded by the Court including, but not limited to, civil or criminal contempt for violation of this Consent Decree, and shall be due and payable immediately upon agreement of the parties involved, or upon a finding by this Court that Defendants have caused or allowed to occur, or have committed a violation of this Consent Decree.

4. Defendants shall notify the United States at least ten (10) days before any change or cessation in ownership, such as assignment or sale, resulting in the creation or emergence of a successor corporation or business entity, or the creation or dissolution of subsidiaries.

5. Defendants shall maintain full, complete and accurate written records of all business activities applicable to the FMIA. Defendants shall make records of all transactions under the FMIA available to USDA representatives for review and copying upon request. Defendants shall afford USDA personnel full and unimpeded access and opportunity to execute this authority consistent with the provisions of 21 U.S.C. §§. 608, 621, 642 and 677, and 9 C.F.R. § 300.6(a) and cooperate with any review, inquiry or investigation under the FMIA.

6. This Court shall retain jurisdiction over this action and the parties thereto to implement the conditions of this Consent Decree, to resolve any and all issues arising under this Consent Decree, or to grant any appropriate relief in the event that any party fails to fulfill his, her, or its obligations hereunder, and to modify the terms of this Consent Decree, or to grant such additional or further relief as may become necessary or appropriate.

7. The below signatories hereby expressly acknowledge and represent that they possess the authority to execute this Consent Decree on behalf of themselves or the represented parties hereto.


APPROVED and ORDERED this 7 day of January, 2011



UNITED STATES DISTRICT JUDGE

BC

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United States Attorney for the
Southern District of New York
Counsel for the United States

By:


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FOR KING CHONG FOOD MARKET, INC

12/8/10


WONG HONG LUE

12/8/10


CHU FUN CHIN

12/8/10